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1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE NORTHERN DISTRICT OF OKLAHOMA
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4 STATE OF OKLAHOMA, ex rel,)
5 W.A. DREW EDMONDSON, in his)
6 capacity as ATTORNEY GENERAL)
7 OF THE STATE OF OKLAHOMA,)
8 et al.)
9 plaintiffs,)
10 v.)
11 TYSON FOODS, INC., et al.,)
12 Defendants.)
13 TYSON FOODS, INC., et al.,)
14 Third Party Plaintiffs,)
15 v.)
16 CITY OF TAHLEQUAH, et al.,)
17 Third Party Defendants,)
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23 No. 05-CV-329-TCK-SAJ
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TRANSCRIPT OF PROCEEDINGS
HAD ON MARCH 23, 2006
MOTION HEARING

BEFORE THE HONORABLE SAM A. JOYNER, Magistrate Judge

Glen R. Dorrough
UNITED STATES COURT REPORTER

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5 Honor.

6 THE COURT: All right, the Court will allow it in for
7 the purpose of this hearing, and you will be given the
8 opportunity to challenge it at a future date if that seems to
9 be appropriate.

10 MR. BULLOCK: The delay of this case, though, must be
11 viewed as a very serious matter because we are dealing with
12 very real and vibrant health risks, public health risks.
13 Exhibit 12 of the plaintiff's exhibits sets out the -- this is
14 a report prepared by the Secretary of Agriculture -- I mean,
15 the Secretary of Environment for the State of Oklahoma
16 reporting to the Oklahoma Legislature concerning these and
17 other scenic rivers and what is to be done concerning them.
18 what you see is that this report states that all three of the
19 major streams that we've talked about, the Illinois, the Barren
20 Fork, and Flint Creek, are impaired for primary body contact.
21 I would move admission for purposes of this hearing,
22 Plaintiff's Exhibit 12.

23 THE COURT: Well, what do you think, Mr. Tucker?

24 MR. TUCKER: Well, Your Honor, it's a document created
25 by the plaintiff so...

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1 MR. BULLOCK: Well, it's an official report prepared
2 by the Secretary of Agriculture given to the Oklahoma
3 Legislature. It clearly fits within the admissibility under
4 any set of rules.

5 MR. TUCKER: Your Honor, just so the record is clear,
6 the Secretary of the Environment and Department of
7 Environmental Quality is a party in this case, an identified
8 party. So it could be self-serving, it's not been subjected to

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14 violation category, numerous violations of the standards for
15 trihalomethanes. Now, what those show is that there are
16 periodic violations, particularly during times when the water
17 is nutrient rich creating an abundance of algae.

18 Now, the standard is written as not only is there a
19 standard by which each of the samples are measured by, but they
20 also have an annual standard where you average those and that's
21 what they're talking about there when they talk about without
22 the number of exceedances. You didn't have the average, the
23 running average but you had an exceedance nonetheless. This is
24 a growing problem in these once pristine water -- in this once
25 pristine watershed where these public water supplies are

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1 getting more frequent violations of the standard to the point
2 where if something is not done, if we don't move promptly on
3 this, you are going to have the average exceedance violated, as
4 well as these individual exceedances.

5 And in fact, that has happened, by the way, in Grand
6 Lake with the Langley Public Water Supply. They have actually
7 violated drawing their water out of Grand Lake, another
8 beautiful piece of water which has been seriously impacted by
9 the poultry industry. They have actually violated this, not
10 only with individual measures but also with an average.

11 Now, that's the reason why we need to proceed, Judge.
12 We need to proceed because the risks to human health are very
13 real. The dangers to people, whether they are swimming in the
14 water, whether they are drinking out of the wells, or whether
15 they are drinking out of the public water supply, there is a
16 real risk to people here. It is not imagined, it's not
17 hyperbole. We need to proceed promptly and we need to gather